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TO: P - Mr. Newsom

FROM: NEA - Peter Constable

SUBJECT: Renewal of U.S.S. Liberty Negotiations

REVIEWED BY [illegible] DATE 7/16/13
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ISSUE

Whether to pursue actively the U.S. claim for compensation for Israeli-inflicted damages to the U.S.S. Liberty.

BACKGROUND:

The U.S.S. Liberty was attacked by Israeli air and naval units on June 8, 1967. The attack caused extensive damages to the ship killed 34 Americans and wounded many more. The Government of Israel discharged fully the claims of individuals, plus a small U.S. Government claim arising from this incident. Still unresolved is the question of a U.S. claim for compensation of approximately $7 million for physical damage to the vessel. After initially pressing a claim until 1971, we did not again pursue this claim until 1974-5. When we did raise the claim the Israelis offered to pay a nominal sum, but we rejected this. In May of 1978, the Israeli Government indicated that Israel would be ready to negotiate a settlement. It was decided, however, to postpone opening the negotiations until the arrival in Washington of the newly-appointed Ambassador, Ephraim Evron. Ambassador Evron was Minister at the Israeli Embassy at the time of the Liberty

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incident and is thoroughly acquainted with events. After the arrival of Ambassador Evron at the beginning of 1979 the peace talks eclipsed the negotiations on the U.S.S. Liberty.

At this time we need to examine the pros and cons of the various possibilities for finally resolving this issue. The basic choices facing us are whether (1) to allow the matter to continue to lay dormant, (2) to inform the Israelis that we will write off the loss totally, (3) to accept the Israeli offer for nominal payment, (4) to initiate full-scale negotiations with the Israel-inflicted damages to the U.S.S. Liberty or (5) to present the Israelis a realistic claim and pursue full payment of the adjusted claim.

1) Allow the Matter to Lay Dormant

During the 11 years since the attack on the Liberty, the issue has not died because of interest on the part of various individuals and certain Congressmen and because we are legally required to inform the Congress annually of outstanding claims against a foreign government. It has however remained dormant for long periods, and beyond a scattering of individuals there is no real public interest in it and only scant congressional interest. Nonetheless, we would be remiss if we failed to move toward resolution.

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2) To Write off the Claim

The U.S. could write off the obligation, not as a bad debt, but as one which is also in our interests to write off. Basically U.S. interests are in maintaining a stable peace process, in pursuing consistently the logic of our economic assistance to Israel and at the same time to recognize Israeli responsibility for the attack. The principal factors against writing off that claim would be the Navy desire to recoup some money and the possibility of a public and Congressional impression that we are absolving Israel of responsibility for its actions. Also there would be considerable legal difficulties and this is probably not practical.

3) To Accept a Token Payment

We have previously refused to accept a token payment from the Israelis. Moreover, in May we settled an outstanding claim with Egypt for damage to USG property in 1967 in 1978 dollars. Egypt is also a high U.S. AID recipient, with an economy in shambles and a much lower per capita income than Israel. However, the Liberty has been scrapped and no amount of payment will salvage the vessel. In addition eleven years, during many of which we did not pursue our own claim, have passed. Advances in technology and inflation have made our original claim almost meaningless. In any event, $7.6 million dollars today would not even buy a modestly-equipped patrol boat. Also technically this type of vessel is obsolete.

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4) To Pursue the Claim Vigorously

We can pursue the claim vigorously and after extended negotiations might get Israeli agreement to a payment of several million dollars. Factors against a full scale negotiation include the cost to the taxpayer to recoup the loss when the cost to the time and manpower required is considered. Also there is a likelihood of Israeli misinterpretation of our actions during the current negotiating period, which very possibly will be as a signal of underlying U.S. opposition to Is
one of continuing friction. The amount of the claim ($7.6 million) is inconsequential compared to the overall amount of U.S. assistance ($1.8 billion) given Israel annually.

5) To Settle an Adjusted Claim

It is possible that after consultations with the Navy and Ambassador Evron, we might be able to reach informally an adjusted claim which would be sufficient to recognize Israeli responsibility and yet small enough that Israel will be able to pay the claim in its entirety without undue stress on the Israeli economy. This would have the advantage of eliminating the need for negotiations between two friendly nations on a potentially time-consuming and contentious issue, of compensating the Navy, of allowing Israel to pay the full amount of the formal U.S. claim, and of satisfying the public and the Congress.

The disadvantages of this approach are marginal. It is in our interest to resolve this issue.

Recommendation

That we settle this issue in a prompt and diplomatic fashion by presenting Israel, after informal negotiations with the Navy and with Ambassador Evron, a realistic claim that they can pay in full.

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